

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JOSE F. OLIVARES,

Plaintiff,

Case No. 22-cv-10574

Hon. Matthew F. Leitman

v.

PERFORMANCE CONTRACTING
GROUP, *et al.*,

Defendants.

**ORDER DENYING (1) PLAINTIFF’S MOTION FOR
RECONSIDERATION (ECF No. 77), AND (2) PLAINTIFF’S
MOTIONS FOR RELIEF FROM JUDGMENT (ECF Nos. 78, 79)**

In this action, Plaintiff Jose F. Olivares brought an intentional-tort claim against his former employer, Defendant Performance Contracting Group (“PCG”), and Charles Williams, PCG’s General Counsel. (*See* Am. Compl., ECF No. 23.) Defendants moved for summary judgment. (*See* Mot., ECF No. 46.) On July 14, 2023, the Court granted Defendants’ motion and entered judgment against Olivares and in favor of Defendants. (*See* Order, ECF No. 73; Judgment, ECF No. 74.)

Olivares disagrees with the Court’s ruling. On July 14, 2023, Olivares filed (1) a Notice of Appeal with the United States Court of Appeals for the Sixth Circuit (*see* Notice, ECF No. 75), (2) a motion for reconsideration in this Court (*see* Mot.,

ECF No. 77), and (3) two motions for relief from judgment in this Court (*see* Mots., ECF Nos. 78, 79.)

The Court has reviewed Olivares' motions and they appear to lack merit. However, because Olivares has filed a Notice of Appeal, that appeal divests this Court of jurisdiction to rule on Olivares' motions. As another Judge of this Court recently explained:

[Plaintiff's] Notice of Appeal divests this Court of jurisdiction to consider his Motion for Reconsideration [...]. Jurisdiction of this action was transferred to the Sixth Circuit Court of Appeals upon the filing of the Notice of Appeal. Whether Plaintiff has stated a claim for relief is an aspect of this case involved in his appeal. His Motion for Reconsideration would have this Court decide that same question, and his Motion for Extension would have this Court de facto vacate its prior order. Thus, [Plaintiff's] Motions may be addressed by only the Sixth Circuit. For these reasons, Plaintiff's Motions will be denied.

Adams v. Michigan, 614 F.Supp.3d 573, 574 (E.D. Mich. 2022) internal citation omitted)¹. *See also Raum v. Norwood*, 93 F. App'x 693, 695 (6th Cir. 2004) (noting that "the plaintiffs deprived the district court of jurisdiction [to consider a motion for reconsideration] by filing a notice of appeal before the district court had a chance to make a decision on the motion to reconsider").

¹ *See also Aldridge v. City of Warren*, 2016 WL 9224894, at *1 (E.D. Mich. June 9, 2016) ("This Court lacks jurisdiction to consider plaintiff's motion for reconsideration because plaintiff has filed a notice of appeal in this case. [...] Because plaintiff has filed a notice of appeal, this Court lacks jurisdiction to amend its original opinion and order to consider the merits of plaintiff's case.)

Accordingly, because Olivares has filed a Notice of Appeal, the Court **DENIES** his motion for reconsideration and motions for relief from judgment **WITHOUT PREJUDICE** for lack of jurisdiction.

IT IS SO ORDERED.

s/Matthew F. Leitman

MATTHEW F. LEITMAN

UNITED STATES DISTRICT JUDGE

Dated: July 18, 2023

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on July 18, 2023, by electronic means and/or ordinary mail.

s/Holly A. Ryan

Case Manager

(313) 234-5126